

UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF NEW YORK

HILDA L. SOLIS, Secretary of Labor,  
United States Department of Labor,

Plaintiff,

v.

HABCO CORP., a Corporation; and  
PHILIP J. AULETA, Individually  
and as President; and  
STEVEN J. AULETA, Individually  
and as Vice President,

Defendants

Civil Action File

No.

12-CV-3764  
ADS, GRB

CONSENT JUDGMENT

**FILED**

IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.

★ AUG 1 - 2012 ★

LONG ISLAND OFFICE

Plaintiff, the Secretary of Labor, has filed her Complaint and defendants Habco Corp., and PHILIP J. AULETA, individually and as President, and STEVEN J. AULETA, individually and as Vice President, appeared by Counsel, waive their answer, and agree to the entry of this judgment without contest. By executing this Consent Judgment, defendants waive formal service of process of the summons and complaint in this matter.

Defendants Habco Corp., PHILIP J. AULETA, individually and as President, and STEVEN J. AULETA, individually and as Vice President, appeared by Counsel, acknowledge their responsibilities pursuant to this agreement, and acknowledge that they will be subject to sanctions in contempt of this court if they fail to comply with the provisions of this Judgment. It is, therefore, upon motion of the attorneys for plaintiff and for cause shown ORDERED that:

I. Defendants, their officers, employees, agents, and all persons acting or claiming to act in the defendants' behalf and interest be, and they hereby are, permanently enjoined and restrained from violating the provisions of sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair

Labor Standards Act of 1938, as amended, (29 U.S.C. Section 201 et seq.), (the Act), in any of the following manners:

(1) Defendants shall not, contrary to Section 6 of the Act, pay to any of their employees who in any workweek are engaged in commerce or in the production of goods for commerce, or employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the Act, wages at rates less than those which are now, or which in the future may become, applicable under Section 6 of the Act.

(2) Defendants shall pay employees at time and one-half their regular hourly rates for all hours worked over 40 per week, and shall not, contrary to Section 7 of the Act, employ any of their employees in any workweek for workweeks longer than the hours now, or which in the future become, applicable under Sections 7 and 15(a)(2) of the Act, unless the employee receives compensation in compliance with the Act.

(3) Defendants shall make, keep, and preserve adequate records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the Regulations issued pursuant to Section 11(c) of the Act and found at 29 CFR Part 516.

II. Defendants Habco Corp. and PHILIP J. AULETA, individually and as President, and STEVEN J. AULETA, individually and as Vice President, are enjoined and restrained from withholding the payment of a total of **\$48,854.08 (\$30,533.81 in overtime compensation, plus \$18,320.27 in liquidated damages)** due certain employees set forth in Exhibit A on or before **July 31, 2012** by delivering a certified or cashier's check for **\$48,854.08** made payable to "**Wage and Hour Division – Labor**" with "**Case No. 1641349**" written on the face of the check.

The check shall be sent to:

**U.S. Department of Labor/Wage & Hour Division  
The Curtis Center, Suite 850, West  
170 S. Independence Mall West  
Philadelphia, PA 19106-3317**

III. In addition, on or before **July 31, 2012**, defendants shall send a copy of such payment to:

**U.S. Department of Labor/Wage & Hour Division  
1400 Old Country Road, Suite 410  
Westbury, New York 11590-5119  
Attn: Richard Mormile, Assistant Director**

IV. Neither defendants nor anyone acting on their behalf shall directly or indirectly solicit or accept the return or refusal of any sums paid as back wages under this Judgment.

V. The plaintiff shall deliver the proceeds of each check less any legal deductions to the employees named on Exhibit A. Any sums not distributed to the employees or to their personal representatives, because of inability to locate the proper persons or because of such persons' refusal to accept such sums, shall be deposited with the Clerk of this Court who shall forthwith deposit such money with the Treasurer of the United States pursuant to 28 U.S.C. §2041 and §2042.

VI. Defendants shall provide to plaintiff the social security numbers and last known addresses of the defendants' employees and former employees to be paid under this judgment.

VII. Defendants shall pay civil money penalties in the amount of **\$19,448.00** on or before **July 31, 2012**. Payment shall be made by separate cashier or certified check[s] made payable to **"Wage and Hour Division – Labor"** with **"Civil Money Penalty – FLSA Case No. 1641349"** written on the face of the check for **\$19,448.00**.

The certified check[s] shall be sent to:

**U.S. Department of Labor/Wage Hour Division  
The Curtis Center, Suite 850 West  
170 S. Independence Mall West  
Philadelphia, PA 19106-3317**

On or before July 31, 2012, Defendants shall send a copy of the check to Richard Mormile, Assistant Director as set forth in paragraph III above.

VIII. Defendants shall place FLSA posters in English and in any other language spoken by the employees. These posters will be provided by the Wage and Hour Division as available. Defendants shall display the posters where employees may view them.

IX. Defendants shall orally inform all their employees in English and in any other language spoken by the employees of their rights under the Fair Labor Standards Act, and the terms of this Judgment, including the payment of minimum wages and overtime and the rights of employees to engage in activity protected by the Act without fear of retaliation. The defendants shall so inform their employees within thirty (30) days of the entry of Judgment on a workday.

X. Neither the commencement of this action nor the provisions of this Consent Judgment shall in any way affect, determine, or prejudice any and all legal rights of any employees of defendant not listed in Exhibit A of this Judgment, be they current or former employees, to file any action against defendant under section 16(b) of the Act or likewise for any current or former employee listed on Exhibit A of this Judgment to file any action against defendant under section 16(b) of the Act for any violations alleged to have occurred after February 21, 2012.

XI. Each party will bear its own fees and other expenses incurred by such party in connection with any stage of this proceeding.

*CASE CLOSED*

SO ORDERED:

DATED: 8/11/12  
Central Islip, NY

UNITED STATES DISTRICT JUDGE

Defendants have appeared by counsel and  
Consent to the entry of this Judgment.

HABCO CORP.

BY:

*Philip J. Auleta*  
PHILIP J. AULETA, Individually and as President


*Steven J. Auleta*  
STEVEN J. AULETA, Individually and as Vice President

*John F. Carman*  
John F. Carman, Esq.  
666 Old Country Road,  
Garden City, New York 11530

Attorney for Defendants

STATE OF NEW YORK            )  
  :SS:  
  
COUNTY OF NASSAU            )

On the 12<sup>th</sup> day of July 2012 before me personally appeared PHILIP J. AULETA to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

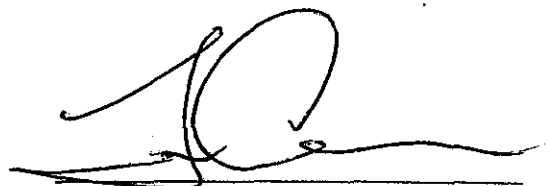
  
\_\_\_\_\_  
NOTARY PUBLIC

**TERESA CAMPANO**  
Notary Public, State of New York  
No. 02CA6109462  
Qualified in Nassau County  
Commission Expires May 10, 2016

STATE OF NEW YORK                    )  
  :SS:

COUNTY OF NASSAU                    )

On the 12<sup>th</sup> day of July 2012 before me personally appeared STEVEN J. AULETA to me known and known to me to be the individual described in and who executed the foregoing instrument and he duly acknowledged to me that he executed the same.

  
\_\_\_\_\_  
NOTARY PUBLIC

**TERESA CAMPANO**  
Notary Public, State of New York  
No. 02CA6109462  
Qualified in Nassau County  
Commission Expires May 10, 2016

## EXHIBIT A

**HABCO CORP.**  
**CASE ID 1641349**

<u>Last Name</u>	<u>First Name</u>	<u>BWs Due</u>	<u>Liquidated Damages</u>	<u>Total Payment</u>
Abarca	Antonio	\$43.50	\$26.10	\$69.60
Aguilar	Fidelia	\$453.15	\$271.89	\$725.04
Alfaro	Jessica	\$924.42	\$554.65	\$1,479.07
Amaya	Roberto	\$1,091.25	\$654.75	\$1,746.00
Arriaza	Maria	\$580.03	\$348.02	\$928.05
Avelar	Cesar	\$170.39	\$102.23	\$272.62
Aviles	Jorge	\$652.53	\$391.52	\$1,044.05
Barahona	Sergio	\$1,091.25	\$654.75	\$1,746.00
Barrera	Julio	\$87.00	\$52.20	\$139.20
Barrera	Rigoberto	\$1,127.67	\$676.60	\$1,804.27
Bejarano	Jose	\$58.00	\$34.80	\$92.80
Berrios	Patricia	\$130.50	\$78.30	\$208.80
Campos	Patricia	\$938.92	\$563.35	\$1,502.27
Castaneda	Jose	\$152.26	\$91.36	\$243.62
Chub	Eydi	\$221.14	\$132.68	\$353.82
Colindres	Bonnis	\$29.00	\$17.40	\$46.40
Cruz	Jose	\$1,236.75	\$742.05	\$1,978.80
Diaz	Alex	\$797.54	\$478.52	\$1,276.06
Diaz	Santos	\$221.14	\$132.68	\$353.82
Duarte	Blanca	\$1,236.75	\$742.05	\$1,978.80
Galvez	Francisca	\$1,382.25	\$829.35	\$2,211.60
Garcia	Maria	\$43.50	\$26.10	\$69.60
Gonzalez	Elvis	\$29.00	\$17.40	\$46.40
Hernandez	Edwin	\$967.92	\$580.75	\$1,548.67
Hernandez-Torres	Irleman	\$141.38	\$84.83	\$226.21
Luna	Saul	\$29.00	\$17.40	\$46.40
Mancia	Auner	\$130.50	\$78.30	\$208.80
Manzanarez	Norma	\$1,132.00	\$679.20	\$1,811.20
Martinez	Julio	\$116.00	\$69.60	\$185.60
Martinez	Rosa	\$967.92	\$580.75	\$1,548.67
Medrano	Fermin	\$1,113.12	\$667.87	\$1,780.99
Mejia	Pedro	\$2,037.00	\$1,222.20	\$3,259.20
Mendoza	Victor	\$1,164.00	\$698.40	\$1,862.40
Ortega	Carlos	\$221.14	\$132.68	\$353.82



Ortiz	Lucio	\$58.00	\$34.80	\$92.80
Osorio	Adrian	\$899.04	\$539.42	\$1,438.46
Palencia	Diana	\$130.50	\$78.30	\$208.80
Perez	Roberto	\$36.26	\$21.76	\$58.02
Quintanilla	Jonathan	\$688.78	\$413.27	\$1,102.05
Quinteros	Edilberto	\$128.00	\$76.80	\$204.80
Quinteros	Sonia	\$116.00	\$69.60	\$185.60
Ramirez	Blanca	\$116.00	\$69.60	\$185.60
Rivera	Maria	\$58.00	\$34.80	\$92.80
Rivera	Santos	\$297.26	\$178.36	\$475.62
Rosales	Noe	\$772.50	\$463.50	\$1,236.00
Rubio	Alberto	\$717.78	\$430.67	\$1,148.45
Saravia	Karina	\$1,091.25	\$654.75	\$1,746.00
Saravia	Oscar	\$1,200.42	\$720.25	\$1,920.67
Saravia	Violeta	\$601.78	\$361.07	\$962.85
Vigil	Hilda	\$612.65	\$367.59	\$980.24
Villegas	Sandra	\$1,091.25	\$654.75	\$1,746.00
Zelaya	Vilma	\$1,200.42	\$720.25	\$1,920.67
<b>Total Due:</b>		<b><u>\$30,533.81</u></b>	<b><u>\$18,320.27</u></b>	<b><u>\$48,854.08</u></b>

## EXHIBIT A